IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:20-cv-00378-MOC-WCM

CHRISTOPHER R. MOONEY)	
Plaintiff)))	ORDER
v.)	
ADVANCED BUSINESS EQUIPMENT,)	
Defendant.)	
)	

This matter is before the Court on a Motion to Strike Plaintiff's Response to Answer (the "Motion to Strike," Doc. 20).

On December 15, 2020, Plaintiff filed a Complaint against Advanced Business Equipment alleging violations of Title VII of the Civil Rights Act, 42 U.S.C. § 2000e et seq. Plaintiff also alleged that Defendant violated 29 C.F.R. §516.5, a record keeping regulation promulgated under the Fair Labor Standards Act (the "FLSA Recordkeeping Claim").

On March 23, 2021, Defendant filed a Partial Motion to Dismiss seeking dismissal of the FLSA Recordkeeping Claim. Doc. 10. Defendant also filed an Answer. Doc. 12.

On April 20, 2021, the Partial Motion to Dismiss was granted by the District Court, and Plaintiff's FLSA Recordkeeping claim was dismissed. Doc. 15.

On June 30, 2021, Plaintiff filed a "Response to Answer" (the "Response," Doc. 19) in which Plaintiff "expressly denies" certain portions of Defendant's Answer and "objects to...and respectfully requests the court to review the defendant jury demand in accordance with Rule 39(a)(2)...." Doc. 19 at 1.1

On July 14, 2021, Defendant filed the Motion to Strike, seeking to strike the Response.

The deadline to respond to the Motion to Strike was July 28, 2021. On August 9, 2021, almost two weeks after expiration of that deadline, Plaintiff filed an opposition to the Motion to Strike. Doc. 23.

Rule 7(a)(7) of the Federal Rules of Civil Procedure provides that a reply to an answer may be filed only when the court has ordered one. Here, the Court has not ordered or authorized Plaintiff to reply to Defendant's Answer. See Laschewitsch v. Lincoln Life and Annuity Distributors, Inc., No. 5:13–CV–315–BO, 2013 WL 5780433, at *2 (E.D.N.C. Oct. 25, 2013).

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¹ Although Plaintiff objects to Defendant's jury demand, Plaintiff has not filed a motion challenging the jury demand.

IT IS THEREFORE ORDERED that the Motion to Strike Plaintiff's Response to Answer (Doc. 20) is **GRANTED** and Plaintiff's Response to Answer (Doc. 19) is **STRICKEN**.

Signed: August 10, 2021

W. Carleton Metcalf

United States Magistrate Judge